

Nos. 22-2069, -2070, -2071, -2072

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IN THE  
**United States Court of Appeals**  
FOR THE FEDERAL CIRCUIT

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MASIMO CORPORATION,

*Appellant,*

v.

APPLE INC.,

*Appellee,*

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APPEAL FROM THE PATENT TRIAL AND APPEAL BOARD  
CASE NOS. IPR2021-00193, IPR2021-00195, IPR2021-00208, IPR2021-00209

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**UNOPPOSED MOTION BY APPELLANT MASIMO CORPORATION  
FOR EXTENSION TO FILE REPLY BRIEF**

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Joseph R. Re, *Principal Counsel*  
Stephen C. Jensen  
Jarom D. Kesler  
Stephen W. Larson  
**KNOBBE, MARTENS, OLSON &  
BEAR, LLP**  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614  
(949) 760-0404

Jeremiah Helm  
**KNOBBE, MARTENS, OLSON & BEAR, LLP**  
1717 Pennsylvania Ave., N.W.  
Washington, D.C. 20006  
(202) 640-6400

*Attorneys for Appellant  
Masimo Corporation*

February 28, 2023

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Masimo Corporation (“Appellant” or “Masimo”) respectfully requests an extension of time to file its reply brief. The reply brief is currently due on March 14, 2023, and Masimo seeks a 30-day extension. Based on this extension Masimo’s new date for submission of its reply brief is April 13, 2023. This is Masimo’s first request for an extension of time

As described in the following declaration of Masimo’s counsel, Jeremiah S. Helm, there is good cause for this extension due to the fact that the attorneys involved in or contributing to this case have conflicts involving obligations including other appeals. Helm Decl. ¶ 2. The conflict with these proceedings provide good cause for an extension. *Id.* ¶¶ 1-3. Counsel for Appellee Apple Inc., has indicated that Apple does not oppose this motion. *Id.* ¶ 4.

For the foregoing reasons, Masimo respectfully requests a 30-day extension, with April 13, 2023 as the new date for submission of its reply brief.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

February 28, 2023

/s/ Jeremiah S. Helm  
Joseph R. Re, Principal Counsel  
Stephen C. Jensen  
Jarom D. Kesler  
Stephen W. Larson  
Jeremiah S. Helm  
Attorneys for Appellant,  
Masimo Corporation

**DECLARATION OF JEREMIAH S. HELM IN SUPPORT OF  
APPELLANT’S UNOPPOSED MOTION FOR EXTENSION OF TIME  
TO FILE REPLY BRIEF**

I, Jeremiah S. Helm, declare as follows:

1. I am an attorney admitted to practice before this Court and a partner at the law firm of Knobbe, Martens, Olson & Bear, LLP (“Knobbe Martens”). I am counsel of record for Appellant Masimo Corporation (“Masimo”) in this appeal. I have personal knowledge of the facts in this declaration, and if called and sworn as a witness, could testify competently to them. I make this declaration in support of Masimo’s motion for a 30-day extension of time to file its reply brief.

2. There is good cause for the requested extension of time due to the fact that the attorneys involved in or contributing to this proceeding are also involved in the following matters:

- *Masimo Corp. v. Apple Inc.*, 22-1894
- *Masimo Corp. v. Apple Inc.*, 22-1895
- *Masimo Corp. v. Apple Inc.*, 22-1972 (consolidated with 22-1973, 22-1975, 22-1976)
- *Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc.*, U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

- *Supernus Pharms., Inc. v. Lupin Ltd., et al., C.A. No. 21-1293 (D. Del.)*
- *Gilead Sciences, Inc., et al. v. Lupin Ltd., et al., C.A. No. 21-01621 (D. Del.)*

3. In view of the foregoing obligations including other appeals involving counsel involved in or contributing to this appeal, the requested extension of time to file Masimo's reply brief is necessary. Without an extension Masimo will suffer hardship related to the unavailability of the attorneys contributing to and/or involved with this appeal to make contributions to this case due to other obligations.

4. On February 23, 2023, counsel for Appellee Apple Inc. stated that Apple does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this February 28, 2023, at Irvine, California.

/s/ Jeremiah S. Helm

Jeremiah S. Helm

Knobbe, Martens, Olson & Bear, LLP

**CERTIFICATE OF INTEREST**

Counsel for Appellant Masimo Corporation certifies the following:

1. The full name of every party represented by me is:

Masimo Corporation.

2. The name of the real party-in-interest represented by me is:

Masimo Corporation.

3. All parent corporations and any publicly held companies that own more than 10 percent or more of the stock of the party represented by me are:

BlackRock Inc.

4. The name of all law firms and the partners or associates that appeared for the party in the lower tribunal or are expected to appear for the party in this court and who are not listed on the docket for the current case:

Knobbe, Martens, Olson & Bear, LLP: William R. Zimmerman and Jacob L. Peterson.

5. The case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-1631 (consolidated with Case Nos. 22-1632, 22-1633, 22-1634, 22-1635, 22-1636, 22-1637, 22-1638)

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-1972 (consolidated with Case Nos. 22-1973, 22-1975, 22-1976)
- Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc., U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

6. Information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees):

None.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

February 28, 2023

/s/ Jeremiah S. Helm

Joseph R. Re, Principal Counsel

Stephen C. Jensen

Jarom D. Kesler

Stephen W. Larson

Jeremiah S. Helm

Attorneys for Appellant,  
Masimo Corporation

**CERTIFICATE OF COMPLIANCE**

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A). The motion contains 172 words, excluding the accompanying documents exempted by Fed. R. App. P. 27(d)(2) and Fed. Cir. R. 27(d).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point font Times New Roman.

KNOBBE, MARTENS, OLSON & BEAR, LLP

February 28, 2023

/s/ Jeremiah S. Helm

Jeremiah S. Helm

*Attorneys for Appellant  
Masimo Corporation*

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